

CHAPTER 13 NUISANCES

13.1 NUISANCES

- 13.1.1 NUISANCE DEFINED
- 13.1.2 SPECIFIC ACTS AS NUISANCE
- 13.1.3 ABANDONMENT OF REFRIGERATORS
- 13.1.4 REFRIGERATORS AS NUISANCE
- 13.1.5 ABATEMENT OF NUISANCES
- 13.1.6 WHEN NOTICE WAIVED

13.2 NOXIOUS WEEDS AND UNHEALTHFUL VEGETATION

- 13.2.1 DEFINITION
- 13.2.2 LIMITS IN WHICH NOT PERMITTED TO GROW
- 13.2.3 WEEDS AND GRASS TO BE CUT
- 13.2.4 PENALTY
- 13.2.5 SPECIAL ASSESSMENTS

13.3 ABANDONMENT OF VEHICLES

- 13.3.1 DEFINITION
- 13.3.2 ABANDONMENT OF VEHICLES
- 13.3.3 ABANDONED VEHICLES ON STREET
- 13.3.4 DISPOSITION OF WRECKED OR DISCARDED VEHICLES

13.4 DOGS

- 13.4.1 DEFINITIONS IN GENERAL
- 13.4.2 LICENSING OF ANIMALS
- 13.4.3 CONDITIONS FOR ANIMAL LICENSE
- 13.4.4 RABIES VACCINE IN GENERAL
- 13.4.5 CITY ANIMAL TAGS
- 13.4.6 RABIES CERTIFICATES AND TAGS
- 13.4.7 ALIEN VACCINATIONS
- 13.4.8 RABIES OBSERVATION
- 13.4.9 QUARANTINE
- 13.4.10 ANIMALS RUNNING AT LARGE
- 13.4.11 LEASHES
- 13.4.12 DISTURBING THE PEACE
- 13.4.13 VICIOUS ANIMALS
- 13.4.14 ENFORCING OFFICER OR CITY AGENT DEFINED
- 13.4.15 RIGHT OF ENTRY IN PURSUIT
- 13.4.16 IMPOUNDMENT
- 13.4.17 KENNEL LICENSES ISSUED
- 13.4.18 RELEASING SHELTERED ANIMALS
- 13.4.19 CRUELTY TO ANIMALS
- 13.4.20 STRAY ABANDONED OR UNKEPT ANIMALS

CHAPTER 13 NUISANCES

- 13.4.21 UNLAWFUL TO POISON
- 13.4.22 CITY POUND MASTER IN GENERAL
- 13.4.23 INTERFERENCE WITH PERFORMANCE OF DUTIES
- 13.4.24 REPORT OF SUSPECTED CASES – GENERALLY
- 13.4.25 SAME – BY VETERINARIANS
- 13.4.26 SAME BY PHYSICIANS
- 13.4.27 DESTRUCTION OF RABID ANIMALS
- 13.4.28 NUMBER OF PETS LIMITED
- 13.4.29 DISPOSITION OF ABUSED ANIMALS
- 13.4.30 EXOTIC OR WILD ANIMALS
- 13.4.31 FOWL
- 13.4.32 RESPONSIBILITY

13.5 LEFT BLANK (FUTURE ADDITIONS)

13.6 SANITATION AND DUMPING GROUNDS

- 13.6.1 DEFINITIONS
- 13.6.2 DEPOSIT OF GARBAGE AND RUBBISH IN CONTAINER
- 13.6.3 COLLECTION OF GARBAGE AND RUBBISH
- 13.6.4 CONTAINERS
- 13.6.5 RUBBISH TO BE COMPACTED
- 13.6.6 CONTAINERS TO BE ACCESSIBLE
- 13.6.7 CONTAINERS FOR MULTIPLE FAMILY DWELLINGS
- 13.6.8 CONTAINERS FOR BUSINESS
- 13.6.9 GENERAL RESTRICTIONS
- 13.6.10 CONTRACT FOR GARBAGE COLLECTION
- 13.6.11 GARBAGE COLLECTION VEHICLES
- 13.6.12 LOADING OF GARBAGE VEHICLES
- 13.6.13 YARD WASTE COMPOST AREA LOCATION AND REGULATIONS
- 13.6.14 MANDATORY FEE
- 13.6.15 PAYMENTS AND DELINQUENT FEES
- 13.6.16 NUISANCE AND PENALTY

13.1 NUISANCES

13.1.1 NUISANCE DEFINED

A nuisance consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either:

1. Annoys, injures or endangers the comfort, repose, health or safety of other;
2. Offends decency;
3. Unlawfully interferes with, obstructs or tends to obstruct or renders

CHAPTER 13 NUISANCES

dangerous for passage, any public park, square, street or highway;

4. Any way renders another person insecure in life, limb, or in the use of property.

Authority: SDCL 9-29-13

13.1.2 SPECIFIC ACTS AS NUISANCE

The following specific act, conditions and things are each and all of them defined to constitute nuisances:

1. Garbage and Refuse. Depositing, maintaining or permitting to be maintained, or to accumulate upon any public or private property any household waste water, sewage, garbage, tin cans, offal, excrement, any decaying fruit, vegetables, fish, meat or bones, any oyster shells, or any foul, putrid, or obnoxious liquid or substances.
2. Manure. The accumulation of manure, unless it can be in a properly constructed pit, bin or box.
3. Breeding place for flies. The accumulation of manure, garbage or anything whatever in which flies breed.
4. Any stagnant pool of water. It shall be unlawful for any person to permit any such nuisance to remain or exist on any property under his or its control. Discretion will be used following weather events.
5. Weeds. Permitting weeds, especially those whose pollen is known to cause hay fever, to grow to maturity on private property, including vacant lots.
7. Dead animals. The owner of a dead animal permitting it to lie on a public street, alley, public ground, private lot, or another place within the City limits.
8. Burning causing or permitting to be burned in any street, alley or public or private ground any filth, manure, garbage, paper or rubbish of any kind. Any burning of leaves, sweepings, or twigs is only permitted in a confined pit or barrel.
9. Privies and cesspools. Erecting or maintaining any privy or cesspool in the City except such sanitary privies and cesspools as are approved by the City Council.
10. Lawn Furniture. It shall be appropriate lawn furniture and maintained. Outdoor furniture shall consist of furniture designed for outdoor use. Furniture intended for indoor use is not permitted for outdoor use. Any indoor furniture left outdoors is not allowed and is subject to abatement.
11. Fencing. It shall be appropriate fencing material and maintained. All fences must be kept in good repair and constructed in accordance with zoning guidelines.

Authority: SDCL 9-32-12, 9-38-28, 9-38-29, 9-30-5

13.1.3 ABANDONMENT OF REGRIGERATORS

Revised May, 2020

CHAPTER 13 NUISANCES

It shall be unlawful for any person to leave or permit to remain outside of any unoccupied dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structures under his or its control in a place accessible to children any abandoned or discarded icebox, refrigerator or another container which has an air tight door or lid, snap lock or another locking device which may not be released from the inside, without first removing said door or lid, snap lock or another locking device from said icebox, refrigerator or container.

Authority: SDCL 34-28-3

13.1.4 REFRIGERATORS AS NUISANCE

The keeping of any discarded iceboxes, refrigerators or other containers as set forth in 13.1.3 shall be and the same is hereby declared to constitute a public nuisance and the same shall be abated as provided by state statute and the abatement of such nuisances shall not, in any manner, affect the penalty provisions of the ordinance.

Authority: SDCL 34-28-3

13.1.5 ABATEMENT OF NUISANCES

It shall be unlawful for any person to maintain or permit the existence of any nuisance as defined in 2-1-3. The Finance Officer or designated agent appointed by Council shall give 15 days' notice in writing by sending a "Notice of Violation" to the person creating such nuisance in the City, at his last known post office address, to abate such nuisance forthwith, and if the person shall not do so within the time set after such notice, he shall be guilty of a misdemeanor. It is hereby made the duty of the Finance Officer or designated agent to enforce this section, and he or she shall cause to be removed or abated immediately such nuisance upon the expiration of a reasonable time after the service of such notice if the same can be done without committing a breach of the peace, and the City may recover the costs of the abating of such nuisance so incurred from the person maintaining such nuisance in a civil action for such purpose. If any such nuisance cannot be abated without a breach of the peace, the City may commence and maintain a civil action for the abatement of such nuisance.

13.1.6 WHEN NOTICE WAIVED

Whenever the owner, occupant or agent or any premises in or upon which any nuisance may be found is unknown or cannot be found, the building official shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

13.2 NOXIOUS WEEDS AND UNHEALTHFUL VEGETATION

13.2.1 DEFINITION

CHAPTER 13 NUISANCES

The following named weeds shall be deemed noxious, dangerous and unhealthful, to wit: Ragweed, parsley, pigweed, nettle, thistle, sunflower, goldenrod, tumbleweed, burdock, cocklebur, wild oats, sticktight, milkweed, creeping jenny and mustard.

13.2.2 LIMITS IN WHICH NOT PERMITTED TO GROW

It shall be unlawful for the owner or occupant of any lot or parcel of land within the City to grow or suffer or allow to grow during the months of June, July, August and September on such lot or parcel of land any of the vegetation described in this chapter.

13.2.3 WEEDS AND GRASS TO BE CUT

Every person, owner or occupant of realty in this City, shall cut down and keep cut all weeds, such as Russian thistle, Canadian Thistle, rag weed, dandelions and all noxious grasses and vegetation of every kind that shall grow upon such premises or along the streets, avenues or alleys adjacent to said premises occupied by them.

13.2.4 PENALTY

Any person violating this Chapter shall be fined \$100.00 for every day the property is in violation of this Chapter. Any person violating any of the provision of this article shall be subject to both criminal and civic sanctions. The City may, at its own digression, cause the property to be mowed and to bill the cost and expenses of \$50.00 per lot/per mowing to the property owner.

No penalty or special assessment shall be imposed under this Chapter unless the City shall first notify such owner or occupant to remove such weeds within seven (7) days from the time of such notice. Such notice shall be mailed to such owner or occupant.

Authority: SDCL 9-32-12

13.2.5 SPECIAL ASSESSMENTS

The city officials shall keep a true and correct account against each and every lot and parcel of land for the cost and expenses of removing and destroying such vegetation thereon, and shall, on or before the fifteenth day of each month, certify and return the same to the Finance Officer, and thereupon the Finance Officer shall prepare an assessment of said costs and expenses and file the same in his or her office, and shall thereupon present the same to assessments for local improvements by special assessment.

Authority: SDCL 9-32-12, SDCL C. 9-43

13.3 ABANDONMENT OF VEHICLES

13.3.1 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance:

CHAPTER 13 NUISANCES

1. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
2. "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport person or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles or tractors.
3. "Street or highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
4. "Property" shall mean any real property within the city which is not a street or highway.

Authority: SDCL 32-30-12.1 et. Seq.; See also SDCL 9-30-2, 9-31-1

13.3.2 ABANDONMENT OF VEHICLES

No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

Authority: SDCL 32-30-12.1 et. Seq.; See also SDCL 9-30-2, 9-31-1

13.3.3 ABANDONED VEHICLES ON STREET

No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle on any street or highway within the city.

Authority: SDCL 32-30-12.1 et. Seq.; See also SDCL 9-30-2, 9-31-1

13.3.4 DISPOSITION OF WRECKED OR DISCARDED VEHICLES

No person in charge or control of any property within the city whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked or discarded vehicle to remain on such property longer than ten (10) days; except that this ordinance shall not apply with regard to a vehicle in an enclosed building, or to a vehicle on the premises of a business enterprise, or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or authorized by the city.

Authority: SDCL 32-30-12.1 et. Seq.; See also SDCL 9-30-2, 9-31-1

13.4 DOGS

13.4.1 DEFINITIONS IN GENERAL

Words, when used in this chapter, unless the context otherwise plainly refers, shall have the meaning indicated:

CHAPTER 13 NUISANCES

1. **AT LARGE:** means off or outside of the premises belonging to the owner or keeper of such dog and not under the control of such owner, possessor, or keeper, or the agent or servant or member of his immediate family, by means of a leash, cord or chain not to exceed ten (10) feet in length, provided that an unleashed dog off the owner's premises shall not be deemed at large if he is under the immediate control of the owner or his agent.
2. **DOG:** means any member of the canine family, both male and female.
3. **LEASH:** means a cord, thong, or chain not more than ten (10) feet in length by which a dog is controlled by the person accompanying it.
4. **OWNER:** means a person owning, keeping or harboring a dog; the occupant of any premises to which a dog customarily returns is presumed to be the owner.
5. **PREMISES:** means the dwelling house and outbuildings and the lot or tract of land on which the same are situated and shall include and automobile or other vehicle in which the owner of the dog shall be an occupant or of which he shall have control, or in which any dog shall be situated with the consent of the owner of the vehicle.
6. **QUALIFIED PERSON:** means any person granted a permit by the governing body of the City to vaccinate animals against rabies.
7. **VACCINATION:** means the injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with, the provisions of this article and the resolutions of the governing body of the City.
8. **VETERINARIAN:** means any licensed practitioner of veterinary medicine licensed to practice such profession in the state.
9. **POUND MASTER OR HUMANE OFFICER:** person designated to be responsible for the care and maintenance of the animal pound and who shall work with other law enforcement officials in the enforcement of the Title.
10. **ANIMALS:** means any dogs, cats, or other domesticated creatures.
11. **ANIMAL CONTROL OFFICER:** that person duly appointed to the position by the City Council or a properly trained employee of the Humane Society responsible for the animal control within the City.
12. **EXOTIC ANIMALS:** rare or different from ordinary domestic animals including reptiles, skunks, birds of prey, wolf hybrids and the offspring of wild animals crossbred with domestic dogs and cats, but not including parrots, toucans or other tame and domesticated birds.

13.4.2 LICENSING OF ANIMALS

All animals kept, harbored or maintained, in the City of Lake Preston, shall be licensed and registered if over six months of age on or before the first day of July of each year or as such animal becomes six months of age if subsequent thereto. Animal licenses shall be issued by the Finance Officer upon payment of a fee in an amount to be established by resolution of the City Council. The owner shall state at the time application is made for such license and upon such forms as the Finance Officer may provide for such purpose

CHAPTER 13 NUISANCES

the owner's name and address, and the name, breed, age, color and sex of each animal owned or kept by him or her, and present to the Finance Officer a record by a veterinarian that the animal has been vaccinated for rabies as provided hereafter. This section includes, but is not limited to dogs and cats. Violation of this ordinance is punishable by a fine or by imprisonment, or both. This license shall be affective for a period of 12 months.

13.4.3 CONDITIONS FOR ANIMAL LICENSE

As a condition to the issuance of an animal license, the person making such application shall furnish a certificate from a licensed veterinarian that the animal sought to be licensed is current with rabies vaccination.

13.4.4 RABIES VACCINE IN GENERAL

On or before July first of each year, every owner shall have his animals vaccinated against rabies, except in cases where an animal shall have been properly vaccinated with the type of vaccine known as the modified live virus, chick embryo origin or another type of vaccine having a longer immunization period and approved by resolution of the governing body of the City. The vaccination required by this section need not be repeated during the time for which the animal is effectively immunized as determined by the veterinarian or other qualified person granting a permit under this title.

13.4.5 CITY ANIMAL TAGS

Upon payment of the license fee each year, as set by resolution of the City Council, the Finance Officer shall issue to the owner a tag for each animal so licensed. Every owner shall be required to provide each animal with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. Animal tags shall not be transferable from one animal to another and no refunds shall be made on any animal license fee because of death of the animal or the owner's leaving the City before expiration of the license period.

13.4.6 RABIES CERTIFICATES AND TAGS

A veterinarian or qualified person, who vaccinates any animal, shall issue to the owner thereof a vaccination certificate. The vaccination certificate shall be prepared and issued in triplicate, one copy to be retained by the issuing veterinarian or other qualified person. A second copy shall be sent to the City Finance Officer for safekeeping.

Each certificate shall bear the name and address of the veterinarian or other qualified person who issued it and a statement containing the description and name of the animal immunized, the type of vaccine used, the date of the vaccination, the date on which the period of effective immunization will expire, and a serial number. The veterinarian or qualified person shall also furnish each owner with a metal tag bearing the certificate number and the year of vaccination. Said tag shall be affixed by the owner of the animal to the collar or harness of the said animal for which the certificate was issued. No one

CHAPTER 13 NUISANCES

except the owner or his duly authorized agent shall remove the collar with the attached tag from the animal.

13.4.7 ALIEN VACCINATIONS

Any owner who has had his animal vaccinated against rabies in another state or municipality by the proper authority therein shall not be required to have such animal revaccinated during the current year when the animal is brought into this municipality; provided, that the requirements of such state or municipality under which the vaccination was made were of a standard which is equal or greater than those required by this article, and further provided that such animal wears a tag affixed to his collar or harness bearing the date of such vaccination.

13.4.8 RABIES OBSERVATION

If an animal is believed to have rabies or has been bitten by an animal suspected of having rabies or has bitten any individual not a member of the owner's family such animal shall be confined and shall be placed under the observation of a veterinarian at the expense of the owner for a period of at least ten days or as ordered by said veterinarian. The owner shall notify the sheriff's department of the fact that his discretion the sheriff or deputy is empowered to have such animal removed from the owner's premises and placed under observation for a period of ten days at the expense of the owner at the nearest pound. It shall be unlawful for any person knowing or suspecting an animal as having rabies to allow such animal to be taken off his premises without the written permission of the sheriff or deputy. Every owner, or other person, upon ascertaining an animal is rabid shall immediately notify the sheriff or deputy who shall either remove the animal or summarily destroy it.

13.4.9 QUARANTINE

Whenever law enforcement or a veterinarian has reason to believe that there is danger that rabies may spread within the municipality, the finance officer shall publish a notice requiring owners of animals, and other specified animals in the area designated, to confine the animals for such period as may be necessary to prevent the spread of rabies. Any animal bitten by another animal known or suspected to have rabies, shall be quarantined for a period to be determined by a veterinarian. Any animal which has bitten a human being or which exhibits symptoms of rabies shall be quarantined for a period of time to be determined by a veterinarian. Whenever an animal with rabies bites or is destroyed because of its having been suspected of being rabid, the owner thereof, whether the animal has been previously quarantined or not, shall at his own expense, send the head of such animal to a proper laboratory for examination. All confinement imposed shall be by means of chain, not a rope, and of sufficient strength to hold such animal securely. Any such other circumstance is hereby declared a nuisance.

13.4.10 ANIMALS RUNNING AT LARGE

CHAPTER 13 NUISANCES

It shall be unlawful for any person, firm or corporation to allow any animal, owned, controlled or harbored by any person to run at large on the streets, alleys, or property of any other person within the City limits. Any person having an animal within the City limits shall have it tied, leashed or otherwise controlled upon their property. It shall be unlawful for any person to allow an animal off the premises without the animal being held in leash. Violation of this ordinance is punishable by a fine up to but not exceed \$200 or by imprisonment, or both.

13.4.11 LEASHES

A leash, according to this title is leather cord or chain not more than ten (10) feet in length of sufficient strength to control the animal. Any animal riding in an automobile is considered to be on the owner's property.

13.4.12 DISTURBING THE PEACE

The owner or custodian of an animal shall not allow the animal to create a disturbance by making loud noises any time of the night or day.

- a. Violation of this ordinance is punishable by a fine or by imprisonment, or both.

13.4.13 VICIOUS ANIMALS

(a) An animal may be declared to be vicious by the health board, or the attending physician of the victim of an animal bite or scratch may request such declaration, under the following guidelines:

- 1) An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
- 2) An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person, or other animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
- 3) No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

(b) When the health board declares an animal to be vicious, the City Finance officer shall

CHAPTER 13 NUISANCES

notify the owner of such declaration in writing that such animal must be registered as a vicious animal within five business days after the receipt of such written notice. Said notice shall be served either in person or mailing such notice by certified mail.

(c) The owner of an animal that has been declared vicious shall make application to the City Finance office to register such vicious animal and shall comply with the following:

- (1) The owner of the animal shall notify City Finance of any changes in the following:
 - a. Ownership of the animal.
 - b. Name, address and telephone number of a new owner.
 - c. Address change of the owner or any change in where the animal is housed.
 - d. Any changes in the health status of the animal.
 - e. Death of the animal.
- (2) If the animal is indoors, the animal shall be under the control of a person over 18 years old.
- (3) If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six feet and under the control of a person over 18 years of age.
- (4) If the animal is outdoors and unattended, the animal must be locked in an escape-proof kennel approved by nuisance committee. Minimum standards shall include the following:
 - a. Fencing materials shall not have openings with the diameter of more than two inches; in the case of a wooden fence the gaps shall be more than two inches.
 - b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
 - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secure to the sides, the sides shall be imbedded in to the ground or concrete.
 - d. The pen or structure shall protect the animals from the elements.
 - e. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
- (5) The animal shall be permanently identified by injecting an identification microchip into the animal using standard veterinarian procedures and practices at cost of the owner. The number and the veterinarian who injected the microchip to be reported to animal control.

CHAPTER 13 NUISANCES

- (6) A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
 - (7) The owner shall carry \$1,000,000.00 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the animal may do or cause to be done. Proof of such insurance shall be filed with City Finance office.
 - (8) The owner shall present proof of current rabies vaccination and current city license of the animal-to-animal control.
 - (9) The owner shall present proof the animal has been altered to prevent reproduction to animal control.
- (d) The vicious animal shall be impounded by agent of the city at the owner's expense until such time as all provisions of subsection (c) are complied with.
- (e) If the conditions in subsection (c) are not complied within, 5 days from the day of the incident the animal shall be euthanized in a humane manner and proof of euthanasia filed with City Finance office.
- (f) Any vicious animal found off the premises of its owner, other than provided for in this article, shall be seized by the agent of the city or any law enforcement and impounded. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any law enforcement may order the owner to deliver the animal to the animal shelter within 24 hours and the owner ordered to appear in court to show cause why this animal shall not be destroyed.

13.4.14 ENFORCING OFFICER OR CITY AGENT DEFINED

Any animal control officer appointed by the City Council shall be defined as an agent of the City, or as an enforcing officer, both of which shall have power under this title. The Council may choose the sheriff's department when filling this position.

13.4.15 RIGHT OF ENTRY IN PURSUANT

When in immediate pursuit of any animal found to be at large in the City, an animal control officer or a sheriff's deputy, or other person designated by the governing body to apprehend offending animals, may enter upon the premises of the owner of such offending animal for the purpose of apprehending such animal, provided that, for the purposes of this section, the word premises shall not be construed to include the inside of any dwelling.

13.4.16 IMPOUNDMENT

Any animal found running at large contrary to the provisions of this title may be impounded at the closest animal pound or shelter. The person in charge upon receiving any such animal shall make a complete registry, entering the breed, color and sex of the animal and whether it is licensed. If licensed he shall enter the name and address of the

CHAPTER 13 NUISANCES

owner and the number of the license tag. As soon as practical after the impounding of any animal, the owner shall be notified, or if the owner of the animal is unknown, notice shall be given by posting in the City Finance Officer's office describing the animal and the place and time of taking. The owner of any animal so impounded may reclaim such animal upon payment of the license fee, if unpaid and all costs and charges incurred by the City of Lake Preston, for the impounding, notice and maintenance of said animal. The Council is empowered to set and establish a schedule of charges, as they may from time to time by resolution deem appropriate. It shall be the duty of the person in charge to keep all animals so impounded for a period of three (3) days. If at the expiration of three days from the date of notice to the owner or the posting of notice such animal shall not have been redeemed, by the owner, then any other person may, upon compliance with the terms of this title, redeem such animal from the pound and become the lawful owner thereof. If no person redeems the animal, it may, in the discretion of the animal control officer, be destroyed.

13.4.17 KENNEL LICENSES ISSUED

The City Finance Officer, upon receipt of an application showing the owner's name and address, the name, breed, age, color and sex of each animal kenneled by the owner, a certificate signed by a qualified veterinarian that each animal has been vaccinated and payment of the appropriate license fee, as established by the City Council, shall issue a kennel license to the owners of animal kennels. All animals housed in a licensed kennel shall be exempt from the other licensing provision of this ordinance.

13.4.18 RELEASING SHELTERED ANIMALS

No person shall unlawfully release, or assist in releasing any animal from the City impoundment facility. A violation of this ordinance is punishable by a fine or by imprisonment, or both.

13.4.19 CRUELTY TO ANIMALS

No person shall willfully or negligently mistreat, abuse or neglect in a cruel or inhumane manner any animal or fowl.

13.4.20 STRAY ABANDONED OR UNKEPT ANIMALS

No person shall harbor or keep any stray animals. Animal's known to be strays shall be reported to the Sheriff's department immediately.

13.4.21 UNLAWFUL TO POISON

It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such animal.

CHAPTER 13 NUISANCES

13.4.22 CITY POUND MASTER IN GENERAL

The City Council is hereby authorized to provide for the appointment of an animal control officer for the enforcement of this Title, for the impounding, destroying, and disposal of animals, and for a schedule of fees to be charged for services rendered, and for a monthly amount to be paid by the City for this service.

13.4.23 INTERFERENCE WITH PERFORMANCE OF DUTIES

No person shall hinder, delay or obstruct the animal control officer, his or her assistant or any law enforcement officer when engaged in capturing, securing, or impounding any animal or animals.

13.4.24 REPORT OF SUSPECTED CASES – GENERALLY

Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the animal control officer, the police, the police department or the health department describing the animal and giving the name and address of the owner if known.

13.4.25 SAME – BY VETERINARIANS

Veterinarians within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to the police department or animal control officer.

13.4.26 SAME BY PHYSICIANS

Physicians within the City immediately upon treatment of any person bitten by an animal shall report such information to the police department or animal control officer.

13.4.27 DESTRUCTION OF RABID ANIMALS

Any rabid animal may be destroyed upon written confirmation of rabies by a licensed veterinarian or physician by the persons:

1. The police officer.
2. Any person appointed by the City Council under the provisions of this chapter.

Any rabid animal may be destroyed by any licensed veterinarian or physician upon diagnosing rabies in said animal without written authorization from any person or authority. If it is not reasonable under the circumstances to impound or to attempt to seize an animal reasonably believed to be rabid, the police officer or animal control officer of any authorized person has permission to destroy the animal immediately in any humane manner.

13.4.28 NUMBER OF PETS LIMITED

It is unlawful for any person to have or to keep more than six (6) domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such

CHAPTER 13 NUISANCES

person residing on or in the lot or premises has a valid kennel license issued by the City. The City humane society, veterinarian officers and retail pet stores are exempt from the provisions of this section. Those domestic pets that are licensed by the City as of May 1, 1993 are exempt.

13.4.29 DISPOSITION OF ABUSED ANIMALS

In cases where an animal or animals have been seized by the animal control officer or designated agent based upon cruelty, neglect or abandonment, such animal may be adopted to another owner or humanely euthanized thereby extinguishing all property right of the existing owner following the procedures as hereinafter provided:

1. Upon seizure of the animal or animals, the animal control officer or designated agent shall serve notice upon the existing owner, if the identity of said existing owner is known, informing said existing owner of the animal control officer's intent to have said animal disposed of.

The existing owner shall have three days to:

1. Declare in writing and deliver to the animal shelter keeping said animal or animals.
 - a. Notice of said existing owner's intent to maintain ownership of the animal or animals and to object to the adoption or euthanasia thereof, and;
 - b. Notice that said existing owners will pay when due all impoundment, board and veterinary costs until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.
2. Pay all impoundment, board and veterinary costs up to the date of the owner's declaration of intent to maintain his ownership of said animal or animals to the animal control shelter.

Upon notification of said existing owner's intent to maintain ownership of the animal or animals and the existing owner's objection to the adoption or euthanasia of the animal or animals, said existing owner shall continue said payments to the animal control shelter for impoundment, board and veterinary costs on a weekly basis until such time as the animal or animals shall be release to said existing owner, or be adopted or euthanized. If, after three days, the existing owner of the animal or animals fails to declare the hereinbefore stated intent, or if the existing owner fails to make any payment in a timely manner, or if the identity of said existing owner is unknown or notification to said existing owner cannot be made, ownership of the animal or animals will revert to the animal shelter.

13.4.30 EXOTIC OR WILD ANIMALS

- A. No person shall keep an animal of a species prohibited or protected by Title 50 Code of Federal Regulations, or by the State of South Dakota.
- B. No person shall keep an exotic or wild animal in such a manner as to constitute a likelihood of harm to the animal, or animals or humans; which is vicious, dangerous, noxious or naturally inclined to do harm or constitute a public or private nuisance, except in a zoo, animal shelter, circus, amusement show or educational facility for which

CHAPTER 13 NUISANCES

adequate protection devices shall be provided to prevent the animal from escaping or injuring the public.

C. No person shall allow any exotic or wild animal to run at large unattended.

D. Any exotic or wild animal that is at large will be impounded by the animal control Officer or designated agent. If the animal control officer or designated agent cannot capture the animal, the animal may be destroyed.

E. The owner shall bear all costs of impoundment and board of the animal.

13.4.31 FOWL

The keeping of animals and fowl on any lot in the city shall not be on a commercial basis or on a scale objectionable to the adjacent property owners, except as may be provided in other provisions of this Code or City Ordinance. Roosters are not permitted in city limits.

13.4.32 RESPONSIBILITY

A. No person shall create or maintain any condition or operate any equipment or keep any animal fowl, pet or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

B. No owner, keeper, caretaker, or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.

C. Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal.

Animals used in parades or involved in law enforcement are exempt from this section.

13.5 Left Blank (Future Additions)

13.6 SANITATION AND DUMPING GROUNDS

13.6.1 DEFINITIONS

For the purposes of this chapter, the words below are defined as follows:

1. "Garbage" is all solid and semi-solid, putrescible and vegetable wastes, resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.
2. "Refuse" is all putrescible and not-putrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleaning,

CHAPTER 13 NUISANCES

market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.

3. "Rubbish" is non-putrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.
4. "Rubble" is stone, brick or similar inorganic materials.
5. "Solid Waste" is garbage, refuse or other discarded materials resulting from industrial, commercial, agricultural and community or residential activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent, dissolved materials in irrigation return flows or other common water pollutants.
6. "Person" is any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state, U.S. Government, trust, estate or any other legal entity.
7. "Disposal Site" is any area, location, tract of land, building, structure or premises at which solid wastes are accepted, disposed of by land filling, incineration, composting or any other method.
8. "Solid Waste Management System" is the entire process of storage, collection, transportation, processing and disposal of solid wastes, by any person engaging in such process as a business or by any municipality, authority, county or any combination thereof.
9. "Garbage Container" is a non-absorbent, water tight can, rodent proof, approved the contractor, which must be kept in a sanitary condition at all times, with the outside thereof free and clean of grease or decomposed matter, secured in such a manner that it cannot be tipped over or spilled by dogs or marauders.
10. "Rubbish Container" is a box, crate or can of such character that it can be readily handled and emptied by the city rubbish collectors and sufficiently tight so as to prevent the rubbish therein contained from being blown or strewn about.
11. "Contract Garbage Collector or Hauler" is any person who hauls or transports and garbage or rubbish through or upon the streets or alleys of the city for a consideration or a fee pursuant to a contract with the city.
12. "City Dump Grounds" is a disposal facility where rubble, rubbish and solid waste are disposed of in a manner which minimizes environmental hazards. The operation for disposing of garbage, rubbish or rubble by the city or its contractor hauler.

Authority: SDCL 9-32-11

13.6.2 DEPOSIT OF GARBAGE AND RUBBISH IN CONTAINER

The occupant of every private home or dwelling place, and the operator of every place of business in the city is hereby required to deposit and keep the garbage that accumulates each day upon his premises in a garbage container as defined above, and

CHAPTER 13 NUISANCES

to each day deposit and keep the rubbish that accumulates upon his premises in a rubbish container herein defined, provided that grass, leaves or other material to be used as compost for fertilizer may be kept in a pit or closed container, until such time as it may be used.

Authority: SDCL 9-32-11

13.6.3 COLLECTION OF GARBAGE AND RUBBISH

The contract garbage collector or hauler shall collect garbage and rubbish from the residence district at least once in each week and from the business district as determined by the contract garbage collector. The collections in the business district shall be made as early in the day as is convenient.

Authority: SDCL 9-32-11

13.6.4 CONTAINERS

All garbage shall be placed in sealed water tight bags, inside garbage containers, and set out to the curb or accessible alley on days of pickup.

Authority: SDCL 9-32-11

13.6.5 RUBBISH TO BE COMPACTED

Before being deposited in a rubbish container all rubbish shall be broken or cut up and compacted so as to occupy as little cubic space as possible and so that it may easily be handled and loaded.

Authority: SDCL 9-32-11

13.6.6 CONTAINERS TO BE ACCESSIBLE

Whenever the premises in which garbage and rubbish accumulates are adjacent to a street or alley, the garbage and rubbish containers shall be kept on the premises in such a location that they will be readily accessible to the nearest street or alley without being unsightly.

Authority: SDCL 9-32-11

13.6.7 CONTAINERS FOR MULTIPLE FAMILY DWELLINGS

The proprietor or operator of each duplex, apartment house, or similar multiple family dwelling shall furnish and maintain for the use of the tenants therein a sufficient number of garbage containers and rubbish containers to hold all garbage and rubbish that accumulates upon such premises in the course of a week, or he shall require the tenants upon said premises to furnish such containers. The place where the garbage and rubbish containers are located shall be kept in a clean and sanitary condition at all times.

CHAPTER 13 NUISANCES

Authority: SDCL 9-32-11

13.6.8 CONTAINERS FOR BUSINESS

Every owner or person in charge of any restaurant, hotel, grocery store, wholesale or food processing establishment or any other business or commercial place having garbage or rubbish as defined by this title shall furnish and provide for use in connection therewith, a constructed of metal and shall have metal covers for all opening, and shall be emptied often enough to prevent the same from giving off any odor or stench.

Authority: SDCL 9-32-11

13.6.9 GENERAL RESTRICTIONS

1. No person shall place, throw or deposit or cause, suffer, or permit to be placed, thrown or deposited any garbage or rubbish as herein defined, in any street, alley, or public ground in the city, except in containers approved by this chapter.
2. No person shall move any article over any street or alley within the city unless such article is entirely supported on wheels, except when such operation is specifically authorized by the Street Foreman.
3. The Contractor shall dispose of all garbage and waste in a landfill approved and licensed by the United State Environmental Protection Agency and the South Dakota Department of Environment and Natural Resources.

Authority: SDCL 9-32-11

13.6.10 CONTRACT FOR GARBAGE COLLECTION

It shall be unlawful for any person to use the streets for the collection, removal or disposal of any garbage or rubbish for a fee or charge without having first entered into a contract with the city to perform such services. Any contract entered into for such services shall be approved by the City Council before it is issued and shall be for such term and consideration and subject to such conditions as the City Council shall from time to time determine in accordance with the provisions of this Ordinance.

Authority: SDCL 9-32-11

13.6.11 GARBAGE COLLECTION VEHICLES

Contract garbage collectors shall provide themselves with suitable vehicles which shall be water tight, leak proof and permanently covered on top which will not permit blowing refuse or leakage onto the roadway leading to the disposal site. Such vehicles shall be kept in a clean and sanitary condition and shall be thoroughly washed at least each week or more often as may be necessary to keep the vehicles in proper sanitary condition. Such vehicles, when conveying garbage shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried on such vehicles so as to drag upon the street. All vehicles used for the collection of garbage shall be equipped with an all metal box which shall otherwise comply with the requirements hereof. Only one-ton trucks shall be allowed to travel on city streets for

CHAPTER 13 NUISANCES

waste pickup.

Authority: SDCL 9-32-11

13.6.12 LOADING OF GARBAGE VEHICLES

Any vehicles used for transporting rubbish and waste material shall be loaded that no material shall fall off or be blown off the vehicle while in transit. It shall be unlawful for any person to load a vehicle contrary to the provisions hereof.

Authority: SDCL 9-32-11

13.6.13 YARD WASTE COMPOST AREA LOCATION AND REGULATIONS

The Department of Environment and Natural Resources granted the City of Lake Preston to operate the yard waste compost facility under the general permit: GPCF 98-05-001.

1. The site will be located northwest of the City of Lake Preston, Kingsbury County, SD (BAKER TOWNSHIP LOTS 1, 2, 3 & 4 103.23 AC 31-111-54).
2. This site is permitted to accept the following: yard waste for composting; and trees, tree branches, and untreated/unpainted wood for burning.

Authority: SDCL 34A-6-74 through 34A-6-78

13.6.14 MANDATORY FEE

There is hereby established the following schedule of fees which shall be charged monthly by the Finance Officer, together with charges for other utilities, to each occupant or family or commercial establishment with the city.

1. Residential: For the occupant of every dwelling house, apartment or building used or occupied for residential purposes, a monthly fee of \$12.00 per 1 single trash can, \$18.00 per 1 single trash can plus another. Also, an additional recycling fee of \$2.00, resident supplies appropriate can.
2. Commercial: For every commercial business will be responsible to contract its own trash service

Authority: SDCL 9-32-11

13.6.15 PAYMENTS AND DELINQUENT FEES

The person residing in or on the premises served shall be liable for the payment of the charges herein provided, but to facilitate collection thereof, the person in whose name the water service is charged shall be billed therefore and shall pay it with the water bill and payment shall be made at the office of the Finance Officer. If not paid within fifteen days after the same has become due as provided in this chapter, they shall become delinquent and the person liable for payment shall be subject to the penalties prescribed by this Ordinance.

Authority: SDCL 9-32-11

CHAPTER 13 NUISANCES

13.6.16 NUISANCE AND PENALTY

Every accumulation of garbage or rubbish which is deposited, kept, burned or transported any place in the city in violation of the provisions of this ordinance is hereby declared to be a public nuisance, and any person who maintains or permits the maintenance of such nuisance shall be guilty of a misdemeanor and, upon conviction thereof shall be subject to a fine of not exceeding Two Hundred Dollars (\$200.00).

Authority: SDCL 9-32-11

FIRST READING: APRIL 6TH, 2020

SECOND READING: MAY 4TH, 2020

PUBLISHED: MAY 13TH, 2020

Mayor Andy Wienk

Finance Officer Brenda Nesseim